



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/815,534 | 03/31/2004 | Sarah H. Kieflhaber | 4366-140 | 3473 |
| 48500 7590 07/07/2008 SHERIDAN ROSS P.C. 1560 BROADWAY, SUITE 1200 DENVER, CO 80202 | | | | |
| EXAMINER | | | | |
| NGUYEN, KHAI N | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 2614 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 07/07/2008 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/815,534

Applicant(s)

KIEFHABER ET AL.

Examiner

KHAI N. NGUYEN

Art Unit

2614

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 March 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-11, 13-25 and 27-40.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Ahmad F. MATAR/
Supervisory Patent Examiner, Art Unit 2614

Continuation of 11.

Applicant's requests for reconsideration filed on March 27, 2008 have been fully considered but they are not persuasive.

Regarding the Non-Statutory Rejection for claims 1-10, 13-15, and 39-40, Applicant argues that claims 1 and 13 "are directed to tracking agent services - -" and they "produce a useful and tangible result" (See Applicant's Remarks page 11 lines 13-17 and lines 31-33).

The Examiner respectfully disagrees with Applicant's argument because tracking is not tangible and may not produce a useful result. The Office Action clearly stated that the recited methods of claims 1-10, 13-15, and 39-40 comprise steps that can be performed in the mind of a user/person or by the use of a pencil and paper (i.e., abstract idea for tracking agent services which can be written down on paper). Also, it can be simple manipulation of data. The recited steps of claims 1-10, 13-15, and 39-40 can be done by merely looking at a screen (e.g. computer display) without actually doing anything and there is no result, nothing tangible. Therefore, claims 1-10, 13-15, and 39-40 are deemed to be directed to non-statutory subject matter, and the rejection is proper and maintainable.

Regarding the Art Rejection for claims 1-11, 13-25, and 27-40, Applicant argues that the reference McKenna et al. (US PAT 7,212,625 hereinafter "McKenna") does not disclose, teach or suggest that "(i) the servicing of contacts by agents, - -" (See Applicant's Remarks page 16 lines 23-27).

The Examiner respectfully disagrees with Applicant's argument because McKenna clearly discloses that (i) the servicing of contacts by agents (See McKenna, Fig. 2, step 202 Receive Caller Request, step 216 Connect Caller to Service Provider, column 6 lines 11-17, routes the call to the selected service provider), (ii) tracking past service results (See McKenna, Fig. 2, step 206 Retrieve Caller Information Data, column 4 lines 44-47, i.e., customer information data may include historic, caller contact preferences gathered from past contacts), (iii) determining whether a contact is related to another contact from the same customer (See McKenna, Fig. 2, step 206 Retrieve Caller Information Data, column 4 lines 50-52, i.e., customer information record may be linked to the contact identifier for that call), and (iv) using the results of the determination in servicing the contact (See McKenna, Fig. 2, steps 208-216, column 3 lines 62-64, column 4 lines 59-64, i.e., passes the service request and the retrieved customer-information data to the costing server). Therefore, McKenna anticipated the claims 1-11, 13-25, and 27-40, and the rejection is proper and maintainable.

Khai N. Nguyen
Phone (571) 270-3141